

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,

Plaintiff,

v.

RUDIUS A. BROWN,

Defendant.

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CASE NO. 1:14-cr-00214

OPINION & ORDER
[Resolving Docs. 1206 &
1253]

JAMES S. GWIN, UNITED STATES DISTRICT COURT JUDGE:

Finding that Defendant Rudius Brown does not present extraordinary and compelling reasons calling for a sentence reduction, the Court **DENIES** Defendant's *pro se* compassionate release motion.¹

Defendant Brown generally argues that this Court erred when it classified him as a Career Offender.

Defendant's *Johnson v. United States*² argument fails. *Johnson* is not relevant to Defendant's sentence because this Court sentenced Defendant Brown under U.S. Sentencing Commission Guidelines ("Guidelines") § 4B1.1(a), and not the Armed Career Criminal Act.³ The "Guidelines are not subject to a due process vagueness challenge," like the statutory *Johnson* claim.⁴

Defendant Brown also argues that this Court wrongly classified him as a career offender under the Guidelines by miscounting his prior offenses. Under Guidelines §

¹ Defendant's Court-appointed counsel did not augment Defendant's *pro se* motion. Doc. 1246. In addition, with this Order, the Court GRANTS the Government's extension motion. Doc. 1253.

² 576 U.S. 591 (2015).

³ Doc. 1255 at 16.

⁴ *Beckles v. United States*, 137 S. Ct. 886, 897 (2017).

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4B1.1(a), the career offender enhancement applies when a defendant has “two prior felony convictions of [. . .] a controlled substance offense.” Defendant’s three Ohio drug trafficking convictions in Case No. CR535313 (arrest date: March 10, 2010), Case No. CR538911 (arrest date: April 6, 2010), and Case No. CR547761 (arrest date: February 26, 2011) qualified him for the enhancement.⁵ Even though these three convictions were sentenced together, “same-day sentencing counts as a single offense only if there is no ‘intervening arrest’ between the offenses.”⁶ Here, as noted above, an arrest separated each prior drug offense.

Since Defendant does not present extraordinary and compelling reasons, the Court does not consider the application of the 18 U.S.C. § 3553 factors.⁷

IT IS SO ORDERED.

Dated: February 8, 2022

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

⁵ PSR at 16–17. Defendant’s motion acknowledges that he was arrested on these dates. Doc. 1246-1 at 2–3.

⁶ *United States v. Patton*, 517 F. App’x 400, 403 (6th Cir. 2013) (quoting U.S.S.G. § 4A1.2(a)(2)). Because Defendant’s three drug convictions qualified him for the career offender enhancement, the Court does not address his argument related to the Failure to Comply conviction in Case No. CR483655.

⁷ See *United States v. Elias*, 984 F.3d 516, 519 (6th Cir. 2021) (allowing compassionate release denial when any 18 U.S.C. § 3582(c)(1)(A) prerequisite not met).